

REMARKS

The Office Action of September 26, 2006 has been carefully studied. The claims in the case are now 1-9 and 16-20, with claims 10-15 having been non-elected, but subject to a rejoinder as set forth in the Office Action. It is seen that the claims are now directed to the use of a ZBM-30 zeolite as opposed to the Markush group of zeolite set forth in original claim 1. In addition, an unsigned Declaration is attached, but it will be substituted by the executed Declaration when it is received.

Information Disclosure Statement

The Information Disclosure Statement filed March 24, 2004 inadvertently omitted the French documents, but since these documents are set forth in the French Search Report as "A" references, merely directed to the area of technology of the patent, Counsel will not send these references to the Examiner unless there is a specific request for same. Also, Counsel does not have an English translation of such French documents, but as indicated in the French Search Report, four of the references have counterpart U.S. patent documents. In any case, it is believed quite clear that the Examiner has surfaced the highly pertinent Degnan et al. reference U.S. 2003/016839 which is more pertinent than all other references. Consequently, the references cited in the French Search Report and the Information Disclosure Statement are at best cumulative.

Claim Objections

The objections to claims 1, 3, 5, 16, 18 and 19, as set forth in the Office Action are cured by the present amendment to said claims. The Examiner is thanked for the careful reading of same which has resulted in the corrections.

Claim Rejections - 35 U.S.C. 103

Inasmuch as the claims are all limited to the use of ZBM-30, the pertinent rejection starts on page 5 of the Office Action wherein claims 2, 3 and 16-19 are rejected over Degnan et al. and further in Gies et al. (*catalog of disorder in zeolite frameworks, 2002*).

The reasoning for the rejection is that Gies et al. discloses that ZSM-48, (that disclosed in Degnan et al.) and ZBM-30 are part of the same family of disordered zeolite structures as indicated in section 6 of Gies et al.

In fact, however, ZBM-30 is not identical to ZSM-48, as shown by the attached Declaration wherein improved results are obtained by the use of ZMB-30+Y as compared to ZSM-48+Y. The comparative experiments show that ZBM-30+Y provide an improved selectivity for middle distillate (68.8 versus 66.1) and also an improved viscosity index of 123 versus 120. Whereas these differences may appear to be minor to those who are not of ordinary skill in the petroleum refinery field, they are of indeed substantial importance because of the huge volumes involved, and the desirability of the middle distillate cut and utility of a high viscosity index. Accordingly, the results set forth in the attached Declaration are unexpected in view of the Examiner's indication that ZMB-30 would act in the same manner as ZSM-48.

Whereas it is believed that the present claims are sufficiently commensurate in scope with the results of the Declaration, it is seen that new claim 20 is provided which requires both a Group VIII element and Group VIB element, and an amorphous or partially crystallized oxide porous mineral matrix as well as at least one of the doping elements from claim 6 upon which it is dependent. In essence, new claim 20 is a subgeneric claim which embraces the species of claim 16.

In view of the above remarks, favorable reconsideration is courteously requested. If there are any residual issues which can be expeditiously resolved by a telephone conference, the Examiner is courteously invited to telephone Counsel at the number indicated below. If Counsel is unavailable, the Examiner is invited to telephone Counsel's assistant Mrs. Richardson at 703-812-5326 and she will involve another attorney so as to hopefully place the case in condition for allowance.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,


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IWM:pdr